C. DUKES SCOTT
EXECUTIVE DIRECTOR

1401 Main Street, Suite 900
Columbia, SC 29201

OFFICE OF REGULATORY STAFF
ORS
SOUTH CAROLINA

Phone: (803) 737-0800
Fax: (803) 737-0801

DAN F. ARNETT
CHIEF OF STAFF

shudson@regstaff.sc.gov

Shannon Bowyer Hudson
Counsel for ORS

December 16, 2010

VIA ELECTRONIC FILING

Jocelyn G. Boyd, Esquire
Chief Clerk and Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

RE: Duke Energy Carolinas, LLC's Integrated Resource Plan ("IRP")
Docket No. 2010-10-E

Dear Ms. Boyd:

In response to the Public Service Commission of South Carolina's inquiry issued November 22, 2010 pursuant to S.C. Code Ann. § 58-3-200, enclosed please find Duke Energy Carolinas, LLC's report to the South Carolina Office of Regulatory Staff.

With best regards,

Shannon Bowyer Hudson

Shannon Bowyer Hudson

Enclosures

cc: Lara Simmons Nichols, Esquire
C. Alex Castles, Esquire
Frank R. Ellerbe III, Esquire
Bonnie D. Shealy, Esquire

BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2010-10-E

In re:	)	**DUKE ENERGY CAROLINAS, LLC'S**
	)	**REPORT RESPONDING TO INQUIRY**
Duke Energy Carolinas, LLC's	)	**REGARDING ANTICIPATED**
Integrated Resource Plan	)	**COMPLIANCE COSTS**
	)	

On November 21, 2010, the Public Service Commission of South Carolina issued its inquiry pursuant to S.C. Code Ann. §58-3-200, requesting that Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or "the Company") reconcile certain statements made by Duke Energy Carolinas' presenters during the Company's allowable ex parte briefing before the Commission on November 9, 2010 ("the Briefing"), with published reports regarding anticipated costs of compliance with current coal combustion by-product ("CCP") regulations from the U.S. Environmental Protection Agency ("EPA"). The South Carolina Office of Regulatory Staff ("ORS"), pursuant to S.C. Code Ann. § 58-4-50(A)(2), requested Duke Energy Carolinas provide it with information responsive to the Commission's inquiry. Duke Energy Carolinas respectfully submits the following report in response to ORS' request and the Commission's inquiry.

COMMISSION INQUIRY

The focus of the inquiry is to reconcile certain information included within an article entitled "Upgrading ash ponds to cost Duke Energy $375M" in the November 8, 2010 edition of the Charlotte Business Journal ("the Article") with the information presented by the Company's panel during the Briefing. The Article originally stated that "Duke Energy estimates it will cost $375 million to upgrade the disposal of coal ash and other plant combustion byproducts," and that "approximately $128 million will be spent in the Carolinas . . ."

Slide 22 of Duke Energy Carolinas' presentation in the Briefing to the Commission on November 9 carried the heading "Positioned Well," and displayed the following bullets:

- Remaining Coal Units have advanced SO2, NOx, and handle Coal Combustion By-Products in a dry manner
- Additional Costs will depend on stringency of final regulations.

Further, during the Briefing, Robert McMurry, Director of Integrated Resource Planning for Duke Energy Corporation, stated as follows:

> From an environmental -- even though it's sounded doom and gloom up to this point – I personally think that Duke Energy Carolinas is positioned well. On the remaining coal units, we have advanced SO2 and NOx controls, and we handle our coal-combustion byproducts in a dry manner, which is the first step toward any regulations of the fly ash, bottom ash, or scrubbers' byproducts. Also, additional costs will depend on the stringency of regulations. It's like anything else. I worked a long time in the environmental controls area, and you can get the first 90 percent at, say, 20 percent of the cost, but to get that last 10 percent, it really might cost you 80 percent more. I mean, it's just the scale of -- you always hit a cost break, if you look at reductions and pollution controls. (Tr. at 37-38).

The Commission Staff indicated that Duke Energy Carolinas' presentation "gave listeners the impression that Duke ratepayers could expect only minor cost increases due to expected new EPA fly ash regulations."

RESPONSE

Duke Energy Carolinas respectfully submits that the statements made during its presentation for the Briefing and that information contained within the Article are consistent and do not provide any conflicting information relating to expected costs to comply with current or future EPA regulations regarding CCP treatment. The information contained within the Article regarding environmental compliance costs pertained to upgrades necessary to meet current, not future or pending, EPA regulations. The original version of the Article erroneously indicated that the referenced cost projections related to compliance with the proposed CCP rules implementing the federal Resource Conservation and Recovery Act ("RCRA") under consideration by the EPA. The Article has, since its initial publication, been corrected to this effect and now states that "Duke has not produced an estimate on the possible costs for these regulations which have not yet been adopted."[1]

Duke Energy Carolinas also submits that it is "positioned well" to respond to the final CCP rules ultimately adopted by EPA. The heading "Positioned Well" on Slide 22 did not pertain specifically to compliance costs, but rather to the fact that the remaining coal units in the Carolinas, which are not scheduled to be retired, already handle their fly ash in a dry manner. As Mr. McMurry articulated during his presentation, the handling of ash in a dry manner is generally the first step in implementing regulations regarding fly ash, bottom ash and/or residues resulting from the flue gas desulfurization process. Although it is too early to tell what specific requirements will result from the RCRA rulemaking, Duke Energy Carolinas anticipates that under any regulatory outcome scenario, fly ash will have to be handled in a dry manner. If the Company did not already handle its fly ash in a dry manner, its costs of compliance with current and future EPA rules regarding CCPs would include the additional expense of the converting its facilities to dry handling. Duke Energy Carolinas estimates that the conversion cost today from wet to dry handling, for its coal facilities that are not presently scheduled to be retired, would be approximately $200 million. As noted earlier, the Company has already undergone the conversion and the Company's statements regarding the fact that it is "positioned well" related only to that it already handles its fly ash in a dry manner at all of its coal generation facilities and

[1] A copy of the Article, as corrected, is attached hereto for review and reference.

did not pertain to any forecast or estimate of future compliance costs arising from future EPA regulation of CCPs.

Further, the Company's presentation during the Briefing did not reference any specific cost estimate for compliance with future or pending EPA regulations. Slide 22 of the presentation for the Briefing states in its second bullet that "**[a]dditional costs will depend on the stringency of the final regulations.**" Mr. McMurry reiterated this during the presentation and explained that in the realm of environmental and pollution controls, there are often unknown, and potentially significant, cost breaks that arise as one gets closer to achieving compliance.

The information and specific dollar amounts cited within the Article appear to have come directly from the Company's Form 10-Q Quarterly Report to the Security Exchange Commission ("SEC") for the third quarter of 2010, which was filed on November 5, 2010. Under federal law, Duke Energy Corporation is required to provide quarterly financial filings to the SEC outlining forward-looking expenditures. The filings are posted on the Company's web site at http://www.duke-energy.com/investors/sec-filings.asp. The Company's November 5 Form 10-Q filing states on page 35 as follows:

> ***Coal Combustion Product (CCP) Management***. Duke Energy currently estimates that it will spend $375 million ($128 million at Duke Energy Carolinas, $79 million at Duke Energy Ohio and $168 million at Duke Energy Indiana) over the period 2010–2014 to install synthetic caps and liners at existing and new CCP landfills and to convert some of its CCP handling systems from wet to dry systems to comply with **current regulations**. The EPA and a number of states are considering additional regulatory measures that will contain specific and more detailed requirements for the management and disposal of CCPs, primarily ash, from the Duke Energy Registrants' coal–fired power plants.
>
> On June 21, 2010, the EPA issued a proposal to regulate, under the Resource Conservation and Recovery Act (RCRA) coal combustion residuals (CCR), a term the EPA uses to describe the byproducts of coal combustion associated with the generation of electricity. The EPA proposal contains two regulatory options whereby CCRs not employed in approved beneficial use would either be regulated as hazardous waste or would continue to be regulated as non–hazardous

waste. **Duke Energy cannot predict the outcome of this rulemaking, however, potential cost of complying with the final regulation may be significant.** The EPA could issue a final rule by the end of 2011. (emphasis supplied).

As noted in the language from the Company's Form 10-Q filing, the referenced expenditures of $375 million for Duke Energy and $128 million for Duke Energy Carolinas as cited by the Article are expected expenditures to comply with current EPA CCP regulations. Also, it is important to note that the $128 million estimated for Duke Energy Carolinas pertains to the installation of synthetic caps and liners at existing and new CCP landfills, and not to the conversion from wet to dry handling of fly ash since the Company already handles its fly ash in a dry manner at all of its coal generation facilities not scheduled to be retired. The cost estimates referenced in the Form 10-Q filing are not related to any estimate of compliance costs resulting from EPA's future regulation of CCPs. The filing also states that Duke Energy Corporation cannot estimate the potential cost of complying with the impending EPA regulation of CCPs under the RCRA.

CONCLUSION

For the reasons set forth above, the information conveyed to the Commission during the briefing and the information provided in the Article are consistent. Through its integrated resource planning process, Duke Energy Carolinas has endeavored to prepare itself to mitigate the operational and cost impacts to its customers of future environmental regulatory requirements, including the regulation of CCPs. However, the Company cannot estimate the projected costs of compliance with federal CCP regulations that are not yet in place. Duke Energy Carolinas is committed to keeping the Commission and the ORS informed regarding its projected costs for compliance with the impending CCP regulations, and will update the

Commission and ORS once the regulations are adopted and the Company's necessary compliance measures are more certain.

Power City

Upgrading ash ponds to cost Duke Energy $375M

Charlotte Business Journal - by John Downey

Date: Monday, November 8, 2010, 3:15pm EST - Last Modified: Tuesday, November 9, 2010, 2:35pm EST

- John Downey
- Senior staff writer
- Email: jdowney@bizjournals.com

*Welcome to **Power Weekend**, catching up on stuff we've learned since Friday.*

Duke Energy estimates it will cost $375 million to upgrade the disposal of coal ash and other plant combustion byproducts.

Duke expects to spend the money from now through 2013 to install liners and caps at existing ash ponds or convert to dry storage dumps.

About $128 million will be spent in the Carolinas, Duke says. The largest expense will be in Indiana, where the cost is pegged at $168 million. Fixing the ponds in Ohio will cost $79 million, the company says.

Duke could incur additional costs on its disposal of products from burning carbon. The EPA made proposals in May would regulate coal ash as either a hazardous material or as a non-hazardous material. But either way, the federal agency is proposing stricter requirements for storage of coal ash. Duke has not produced an estimate on the possible costs for these regulations which have not yet been adopted. **(This section of this blog post corrects an error in an earlier version. See correction at the bottom of the page.)**

Several states are also considering stricter regulations.

The concern has come in the wake of a December 2008 failure of an ash pond dam the Tennessee Valley Authority operated near Harriman, Tenn. No one was seriously injured in the incident. But it brought to the fore issues concerning the safety of such dams and the toxicity of coal ash itself.

Wind power gathers force at energy council

The working committees of the N.C. Energy Policy Council presented a raft of proposals last week for the upcoming state legislative session, including new energy tax breaks, allowing utilities to finance customer energy-efficiency projects and a crash program to promote offshore wind development.

Wind energy accounted for some of the most dramatic proposals made at the council's meeting. For example, the group's renewable-energy subcommittee recommended carving out a set-aside for the development of on-shore wind projects similar to the set-asides already in place to encourage solar and animal-waste energy development.

The change would require utilities to produce about 1 percent of the state's energy from wind on land-based projects by 2017.

Kris Coracini of the Environmental Defense Fund told the council that would amount to 300 to 800 megawatts of energy by that year. And most of the development would come in relatively poor eastern N.C. counties, making it particularly attractive as an economic-development proposal.

But offshore wind produced the strongest call for financial and tax incentives to bring more development to the state.

Brian O'Hara of Outer Banks Wind told the council that if North Carolina developed 3 percent of its offshore wind resources, it could mean 45,000 construction jobs, 9,100 permanent jobs and $22 billion in total economic benefit.

He said federal statistics show 23 percent of all the prime wind resources on the East Cost are along North

Carolina. He said immediate action was needed to encourage development of some of those resources to attract manufacturing and engineering jobs associated with wind power to North Carolina instead of other East Coast states.

O'Hara said New Jersey, Delaware, New York and Massachusetts already have a jump on the Tar Heel State. But the resources available here give it a chance to catch up.

O'Hara said the state should establish a special tax credit for manufacturing offshore wind equipment. The state should consider legislation to let allow utilities to build switching stations and other infrastructure along the coast to link to offshore projects and allow them to recover the costs from ratepayers. And he said the state Commerce Department should establish a task force on offshore wind immediately.

The full council will vote on the final proposals Nov. 29.

Gov. **Bev Perdue** reconstituted the council last year and gave it the task of coming up with proposals for a comprehensive, low-carbon energy policy for the state. She has emphasized that the policy should encourage the development of the renewable-energy industry in the state.

John Downey covers the energy industry for the Charlotte Business Journal. *Click here to read more recent postings on Power City.*

To get an RSS feed for Power City *click here.*

Correction: An earlier version of this story said Duke's $375 million in estimated costs were related to the proposed rules under consideration by the EPA.

Recent posts:

- Duke Energy cool to burning trees in Ohio
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The Public Service Commission State of South Carolina

Jocelyn G. Boyd
Chief Clerk/Administrator
Phone: (803) 896-5133
Fax: (803) 896-5246

Legal Department
F. David Butler, Senior Counsel
Phone: (803) 896-5113
Fax: (803) 896-5231

November 22, 2010

C. Alex Castle, Esquire
Duke Energy Carolinas, LLC
Post Office Box 1006 (EC03T)
Charlotte, NC 28201-1006

Frank R. Ellerbe III, Esquire
Robinson McFadden & Moore, PC
P.O. Box 944
Columbia, SC 29202

Nanette S. Edwards, Esquire
South Carolina Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

IN RE: Duke Energy Carolinas, LLC's Integrated Resource Plan (IRP)

Dear Alex, Frank, and Nanette:

The Commission Staff has a question that resulted from the recent presentation on the Duke IRP and a subsequent article presented in The Charlotte Business Review. We would appreciate Duke's response to this question, pursuant to S. C. Code Ann. Section 58-3-200:

During the November 9, 2010, Duke Energy Allowable Ex Parte presentation on the Company's 2010 Integrated Resource Plan, one of the points made (see Slide 22) is that with respect to environmental considerations, Duke is positioned well with respect to expected fly ash regulations because, "Remaining Coal Units have advanced SO2, NOx and handle Coal Combustion By-Products in a dry manner." Intended or not, this gave some listeners the impression that Duke ratepayers could expect only minor cost increases due to expected new EPA fly ash regulations.

Please reconcile the statement with an article in the November 8, 2010, edition of The Charlotte Business Review stating, "Duke Energy estimates it will cost $375 million to upgrade the disposal of coal ash and other plant combustion byproducts." According to the article, about $128 million of that amount will be spent in the Carolinas.

You may find the article at: http://www.bizjournals.com/charlotte/blog/power_city/2010/11/upgrading-ash-ponds-to-cost-duke.html.

Thank you in advance for your consideration in providing your response.

Sincerely,

F. David Butler

F. David Butler
Senior Counsel